IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 4920 OF 2007

Mahendra Kantilal Shah ....Petitioner
V/s
The Goregaon Co-op. Urban Bank Ltd.. ....Respondent.

Mr.Alpa Zaveri, Adv. For the petitioner.

CORAM: A.P.DESHPANDE, J.
8/8/07

PC:

A money decree has been passed in favour of the respondent-bank and against the petitioner who is the borrower. In the course of execution of decree an affidavit has been filed by the present judgment-debtor making disclosure in relation to properties. By the impugned order passed by the trial Court the decree holder-bank has been permitted to cross examine the petitioner touching the statement made in the affidavit. It is this order which is called in question by contending that there is no such power to permit cross examine of the judgment-debtor touching the correctness of the averments made in the affidavit. The submission is wholly unsustainable. Once the petitioner has filed an affidavit under order XXI rule 41 the Court has ample power and jurisdiction to permit cross examination of the judgment-debtor touching the averments made in the affidavit. Perused the order. The same does not suffer from any illegality. There is no merit in the petition. Hence writ petition is summarily dismissed.

8.8.07